REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the following remarks. Currently, Claims 1-6 and 9-58 are pending, with Claims 9-11, 13, 14, 20-24, and 28-58 withdrawn from consideration. Claims 1-6, 12, 15-19, and 25-27 have been examined, with no claims being allowed.

Election/Restriction

The Examiner indicates that Claims 9-11, 13-14, 20-24, and 28-58 remain withdrawn from further consideration. It is Applicants' understanding that these claims will be considered upon indication of allowable subject matter being present in the claim(s) from which they depend.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 1-5, 12, 15-19, and 25-26 under 35 U.S.C. §102(b) as being anticipated by 3M PCT Publication No. WO 95/34264 (hereinafter "PCT '264") is respectfully traversed.

PCT '264 discloses an elastic composite including one or two sheets thermally bonded directly to a single layer of molten, extruded elastic strands.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. PCT '264 does not disclose each and every element or limitation of Claims 1 and 25.

Applicants' invention as recited in independent Claims 1 and 25 requires a garment having high and low tension/stretch zones and a barrier layer positioned between at least two elastomeric filaments. More particularly, at least one of the elastomeric filaments of the low tension or high stretch zone is joined to a first surface of the barrier layer and at least another one of the elastomeric filaments of the low tension or high stretch zone is joined to the opposite surface of the barrier layer.

PCT '264 fails to disclose elastomeric filaments joined to opposite surfaces of a barrier layer. Instead, PCT '264 discloses an elastic sheet-like composite including a single layer of elastic strands extruded onto one surface of a

sheet material. When stretched longitudinally of its strands, the elastic sheet-like composite will be under greater tension adjacent its edges parallel to the strands than at its mid portion between those edges because of larger or more closely spaced strands adjacent its edges. The elastic sheet-like composite includes elastomeric strands of different sizes or spacing on a single surface of the sheet material, but fails to disclose any elastomeric strands joined to the opposite surface of the material.

The Examiner states in the "Response to Arguments" section of the Office Action that the term "joined to" does not have to be interpreted as "directly joined to." The Examiner further indicates that she interprets the term "joined" to include direct or indirect joining. Applicants' specification does not explicitly define the term "joined," but instead uses the term in a manner consistent with the common meaning of the term, namely "To put or bring together so as to make continuous or form a unit; to put or bring into close association or relationship" (The American Heritage® Dictionary of the English Language, Fourth Edition ©2000, Houghton Mifflin Company).

Applicants' Claims 1 and 25 specifically recite the locations to which the elastomeric filaments are joined, namely to the first surface and the second surface of the barrier layer. The claim language, particularly when interpreted in view of the specification and the figures, makes it clear that at least two elastomeric filaments are located on opposite surfaces of the barrier layer. Even when interpreting the term "joined" to include direct or indirect joining, the requirement remains that the elastomeric filaments must, at the very least, be located on opposite surfaces of the barrier layer. Thus, indirect joining leaves open the possibility that an additional layer or layers or other components may be positioned between the elastomeric filaments and the barrier layer, but this interpretation does not mean that the positively recited limitations (i.e., the specific surfaces to which the elastomeric filaments are joined) can be ignored.

To interpret the term "joined" in Claims 1 and 25 as "directly or indirectly joined," and thus equating "joined to the first surface" with "joined to the second surface" with no differentiation between the two limitations, is clearly repugnant to the true meaning of this term as used in the claims.

For at least the reasons presented above, Applicants respectfully submit that Claims 1 and 25 are not anticipated by PCT '264. Because Claims 2-5, 12, and 15-19 depend from Claim 1, and Claim 26 depends from Claim 25, these claims are also not anticipated by PCT '264. Thus, Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 6 and 27 under 35 U.S.C. §103(a) as being unpatentable over PCT '264 in view of European Patent Application No. 0 688 550, hereinafter "EP '550," is respectfully traversed.

As explained above, PCT '264 fails to disclose or suggest high and low tension/stretch zones and elastomeric strands positioned on opposite surfaces of a barrier layer. To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The elastic sheet-like composites in PCT '264 are formed by extruding elastomeric strands onto one surface of a sheet material. There is no suggestion or motivation provided in PCT '264 that would lead a person skilled in the art to extrude elastomeric strands onto both surfaces of a sheet material.

Even if the teachings of PCT '264 were combined with the teachings of EP '550, the combination would fail to disclose or suggest Applicants' claimed invention. The Examiner suggests that substituting a two-ply barrier layer in place of the one-ply film barrier in PCT '264 would result in Applicants' claimed invention. However, such a replacement would still lack elastomeric strands on a second surface of the film layer. Thus, there would be no reasonable expectation of success in achieving Applicants' claimed invention based on the combination of PCT '264 and EP '550.

Another requirement for establishing a *prima facie* case of obviousness is that the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not

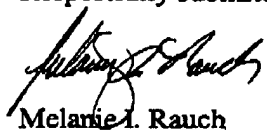
based on Applicant's disclosure. Neither PCT '264 nor EP '550 discloses or suggests elastomeric strands joined to opposite surfaces of a barrier layer. Absent impermissible hindsight, there is no suggestion in either PCT '264 or EP '550 to apply elastomeric strands to both surfaces of a barrier layer.

For at least the reasons given above, Applicants respectfully submit that the teachings of PCT '264 in view of EP '550 fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



Melanie I. Rauch
Registration No. 40,924

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403